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OCT 30 2008

**OFFICE OF PETITIONS**

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.  
2200 CLARENDON BLVD., SUITE 1400  
ARLINGTON, VA 22201

In re Application of  
**ASCHKE, et al.**  
Application No. 10/825,618  
Filed: April 16, 2004  
Attorney Docket No. **KEKO-0003**

DECISION ON PETITION  
UNDER 37 CFR 1.137(b)

This is a decision in response to the petition, filed April 17, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

The application became abandoned for a failure to timely pay the issue and publication fees on or before September 20, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed June 20, 2007. Accordingly, the date of abandonment of this application is September 21, 2007.

A grantable petition under 37 CFR 1.137(b)<sup>1</sup> must be accompanied by: (1) the required reply,<sup>2</sup> unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

Petitioner has supplied the reply in the form of payment of the issue/publication fees and the petition fee of \$1,540; however, the petition lacks an adequate statement of unintentional delay.

In this regard, the record indicates that petitioner was not responsible for prosecution of the application when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide a statement from the owner of the invention at the time of abandonment explaining why action was not timely taken to prevent the application from becoming abandoned.

Petitioner is advised to send a letter (accompanied by a copy of this decision) to SCHOTT AG at Hattenbergstrasse 10, Mainz, Germany 55122, by certified or registered mail (return receipt requested) indicating that the U.S. Patent and Trademark Office (USPTO) is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the USPTO is requesting that SCHOTT AG provide within a specified period (e.g., one month) a

<sup>1</sup> As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

<sup>2</sup> In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

statement setting forth why appropriate action was not timely taken to prevent the application from becoming abandoned. Petitioner is advised that, in the event that SCHOTT AG does not provide such a statement, petitioner should submit a copy of such letter and a copy of the return receipt.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" as well as the omitted item(s) noted above. This is **not** a final agency action within the meaning of 5 U.S.C. ' 704.

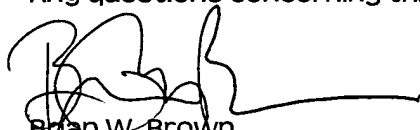
Further correspondence with respect to this matter should be addressed as follows:

By mail:                      Mail Stop PETITION  
                                    Commissioner for Patents  
                                    Post Office Box 1450  
                                    Alexandria, VA 22313-1450

By hand:                     U.S. Patent and Trademark Office  
                                    Customer Service Window, Mail Stop PETITION  
                                    Randolph Building  
                                    401 Dulany Street  
                                    Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Any questions concerning this matter may be directed to Monica A. Graves at (571) 272-7253.

  
Brian W. Brown  
Petitions Examiner  
Office of Petitions

CC:                            MICHAEL J. STRIKER  
                                    STRIKER, STRIKER & STENBY  
                                    103 EAST NECK ROAD  
                                    HUNTINGTON, NY 11743



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OCT 27 2008

In re Application of :  
ASCHKE, et al. :  
Application No. 10/825,618 :  
Filed: April 16, 2004 :  
Attorney Docket No. KEKO-0003 :  
DECISION ON REQUEST FOR  
REVOCATION OF POWER  
OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed April 17, 2008.


The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed. In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number). The power of attorney filed on April 17, 2008 does not include one of the above two options.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

  
Monica A. Graves  
Petitions Examiner  
Office of Petitions

cc: MICHAEL J. STRIKER  
STRIKER, STRIKER & STENBY  
103 EAST NECK ROAD  
HUNTINGTON, NY 11743